

**IN THE DISTRICT COURT OF THE UNITED STATES
OKLAHOMA EASTERN DISTRICT**

DEFENDANT'S MOTION TO AMEND ANSWER

COMES NOW the Defendant in this matter, Wagner & Lynch, P.L.L.C. (“W&L”) and for its *Response to Dismiss Counterclaim* [Doc. 17] as filed by Plaintiff Great Lakes Insurance, SE (“Great Lakes”), states as follows.

1. That this matter was filed by Great Lakes as a declaratory action. *See* [Doc. No. 2].
 2. That the Defendant filed an Answer and Affirmative Defenses [Doc. 11] in a timely fashion.
 3. That in the Answer and Affirmative Defenses, claims insurance bad faith practices based on the actions of the Plaintiff. *See* Doc. No. 11, specifically paragraphs 2, 3, 5, 6, & 7. Therein, the Defendant's stated affirmative defenses are breach of contract, bad faith, unclean hands, unjust enrichment, and procedural fencing.
 4. That the Answer and Affirmative Defenses pleading was filed February 26, 2023.
 5. That the Counterclaim was filed separately on March 9, 2023.
 6. That since that time, respective counsel have provided the Court with a Joint Status Report [Doc. 14], that was filed with the Court on March 20, 2023.
 7. Thereafter, given the JSR that was filed, the Court entered a Scheduling Order [Doc. 15].
 8. That Fed. R. Civ. P. Rule 15, the Court "should freely give leave when justice so requires."

9. That given the extremely short time frame (as noted above) in the filing of the *Petition*, *Answer*, and *Counterclaim*, to date, coupled with Plaintiff's notice of the *de facto Counterclaim* in the Affirmative Defenses, seems to weigh heavily in favor of the Defendant's request to amend its previously filed pleading.
10. That the opposing party has been contacted and objects to this motion.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this court: 1) issue Order(s) that allow the Defendant to amend its Answer [Doc. 11] to include the Counterclaim more specifically in the same.

DATED this 28th day of March, 2023.

Respectfully submitted by:



Wesley J. Cherry, OBA #22851
FOUNDATION LAW, P.L.L.C.
P.O. Box 758
McAlester, OK 74502
(918) 839-6353 Telephone
(888) 622-3181 Facsimile
Wes.FoundationLaw@gmail.com
www.FoundationLawFirm.com
Attorney for Defendant-Counterclaimant

CERTIFICATE OF SERVICE

I CERTIFY that on this 28th day of March, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notifications to the following:

Michael Linscott, OBA #17266

Alexandra Gage, OBA #33874

DOERNER, SAUNDERS, DANIEL & ANDERSON

Two West Second Street, Suite 700

Tulsa, OK 74106-3117

mlinscott@dsda.com

agage@dsda.com

Attorneys for Plaintiff

I CERTIFY that on this 28th day of March, 2023, I sent the foregoing to the following individuals without the use of the CM/ECF system, via U.S. Mail, all postage pre-paid:

NONE.



[Handwritten signature of an attorney]

Attorney for Defendant